

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 02/19/01?
b. The request was received on 02/14/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. Initial TWCC-60 and HCFA-1450s [per Rule 133.307(e)(1)(A-C)]
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60 and EOBs [per Rule 133.307(e)(2)(A-C)]
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The requestor did not respond to the Commission's request for additional documentation, per Rule 133.307(g)(3). The findings and decision will be based on the initial request and the carrier's initial response to the request.
4. Fax confirmation of Commission's request for additional documentation.

III. PARTIES' POSITIONS

1. Requestor: none submitted
2. Respondent: none submitted

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service (DOS) eligible for review is 02/19/01.
2. The provider, an ambulatory surgery center, billed a total of \$5,151.26 on 02/19/01.

3. The carrier reimbursed \$1,118.00 for DOS 02/19/01. The EOB has the denial “M – IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE.”
4. The amount in dispute is \$4,033.26; the difference between the billed amount and the amount reimbursed.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401(a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011(b) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.307(g)(3)(D) requires the provider to supply documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement. The provider has not submitted any documentation of fair and reasonable reimbursement.

Commission Rule 133.304(i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier has not submitted its methodology.

Regardless of the carrier’s response, lack of response or carrier’s methodology, under the Act, there must be specific statutory authorization to create liability through waiver. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable and conforms to the criteria identified in Sec. 413.011(b) of the Texas Labor Code.

The requestor has not responded to the Commission request for additional documentation and therefore, has not submitted documentation to establish entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 9th day of August 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division